

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Samuel Bourne, *
Plaintiff *
*
v. * 12-cv-251-JL
State of New Hampshire, Supreme *
Court of New Hampshire, Linda *
Dalianis, James Duggan, Gary Hicks, *
Carol Ann Conboy, Robert Lynn *
and Eileen Fox, *
Defendants *
*

OBJECTION TO MOTION TO STRIKE

The Defendant(s), State of New Hampshire, Supreme Court of New Hampshire,
Honorable Linda Dalianis, Honorable James Duggan, Honorable Gary Hicks, Honorable Carol
Ann Conboy, Honorable Robert Lynn and Eileen Fox, Supreme Court Clerk, by and through
counsel, the Office of the Attorney General object to plaintiff's motion to strike the Defendants
motion to dismiss as follows.

1. Plaintiff's motion to strike is frivolous and should be denied. Using the honorific "Honorable" or "Supreme Court Clerk" to refer to the individual defendants, who in fact hold those positions, is not deceitful and makes no change whatsoever in the capacity in which they were sued in plaintiff's complaint.
2. Plaintiff has in fact sued the "Supreme Court of the State of New Hampshire" as well as naming each of the Justices in their individual capacity. Therefore, he has sued the Justices in both their official capacity as the Supreme Court of New Hampshire and in their individual capacities.

3. The argument sections of the motion to dismiss appropriately distinguish between the arguments that are directed at the claims brought against the state entities in their official capacity and the individual defendants. Nowhere in the motion has counsel represented that the defendants have been sued only in their official capacity.

4. No memorandum of law is required as the relevant argument is stated herein.

WHEREFORE, it is respectfully requested that the plaintiff's motion to strike be denied.

Respectfully submitted,

STATE OF NEW HAMPSHIRE, N.H. SUPREME COURT, HONORABLE LINDA DALIANIS, HONORABLE JAMES DUGGAN, HONORABLE GARY HICKS, HONORABLE CAROL ANN CONBOY, HONORABLE ROBERT LYNN AND EILEEN FOX, SUPREME COURT CLERK

By their attorney,

MICHAEL A. DELANEY
ATTORNEY GENERAL

Date: August 7, 2012

/s/ Nancy J. Smith

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the following persons on this date and in the manner specified herein: Conventionally served by first class mail to Samuel Bourne, pro se, 117 Pond Street, East Bridgewater, MA 02333.

Date: August 7, 2012

/s/ Nancy J. Smith

Nancy J. Smith
NH Bar # 9085